

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EDDYSTONE RAIL COMPANY, LLC,

Plaintiff,

v.

BRIDGER LOGISTICS, LLC, et al.

Defendants.

Case No. 2:17-cv-00495-JDW

ORDER

AND NOW, this 16th day of September, 2022, following a conference with counsel for the Parties, it is **ORDERED** as follows.

1. The Parties shall file their Stipulated Facts on the public docket by the start of trial.

2. The Parties shall use the following protocol with respect to the resolving objections related to closing the courtroom:

a. By 12:00 p.m. ET on September 17, 2022, Defendants shall identify which of the 96 crime-fraud exhibits warrant closing the courtroom, consistent with the Court's guidance at the final pre-trial conference;

b. By 12:00 p.m. ET on September 18, 2022, Plaintiff shall provide any objections as to closing the courtroom for particular exhibits. The Parties shall meet and confer as soon as practicable to resolve any disputes; and

c. By 9:00 p.m. ET that same day (i.e., the day before trial is scheduled to start), the Parties shall email a full list of the 96 crime-fraud exhibits, including any unresolved objections to the Court at [Chambers of Judge Wolson@paed.uscourts.gov](mailto:Chambers_of_Judge_Wolson@paed.uscourts.gov). The subject line of the email shall include: 1) the case caption, 2) the identity of submitting Party, and 3) the phrase "crime fraud."

3. The Parties shall exchange demonstrative exhibits they intend to use in their opening statements by 8:00 p.m. ET on September 17, 2022.

4. At trial, the Parties shall use the following protocol with respect to their designated witnesses,¹ demonstratives,² exhibits,³ and expert affidavits⁴:

a. By 8:00 p.m. ET two calendar days before a Party intends to call a witness, use a demonstrative, introduce an exhibit, or present an expert affidavit: The Party intending to do so shall provide that information to the opposing Party;

b. By 6:00 p.m. ET the following day, (i.e., one calendar day before the witness is called, the demonstrative or exhibit is used, or expert affidavit is presented): The opposing Party shall provide any objections to the witnesses or other items. The Parties shall meet and confer as soon as practicable to resolve any disputes; and

¹ There is separate protocol for cross-designated witnesses.

² The Parties have agreed that demonstratives include but are not limited to timelines, charts, graphs, models, diagrams, drawings, and recordings, but do not include bullet point summaries or outlines of counsel's presentation, e.g., talking points.

³ Exhibits include summary exhibits.

⁴ As discussed during the final pre-trial conference, the Parties shall provide the Court with an expert affidavit, which the Court will review in lieu of live testimony. The Parties shall also provide the Court with a redacted version for the public docket.

c. By 9:00 p.m. ET that same day (i.e., one calendar day before the witness is called, the demonstrative or exhibit is used, or expert affidavit is presented): The Parties shall email any unresolved objections or issues to the Court at WolsonCourtesyCopy@paed.uscourts.gov. The subject line of the email shall include: 1) the case caption, 2) the identity of submitting Party, and 3) the phrase "trial issues."

5. The Parties do not need to provide opposing counsel with advance notice of impeachment material.

6. At trial, the Parties shall use the following protocol with respect to cross-designated witnesses:

a. By 8:00 p.m. ET four calendar days before a Party intends to call a cross-designated witness: The Party intending to do so shall provide that information to the opposing Party;

b. By 6:00 p.m. ET two calendar days later, (i.e., one calendar day before the cross-designated witness is called): The opposing Party shall provide any objections to the witness. The Parties shall meet and confer as soon as practicable to resolve any disputes; and

c. By 9:00 p.m. ET that same day (i.e., one calendar day before the witness is called): The Parties shall email any unresolved objections or issues to the Court at WolsonCourtesyCopy@paed.uscourts.gov. The subject line of the email shall include: 1) the case caption, 2) the identity of submitting Party, and 3) the phrase "trial issues."

7. The Parties shall use the following protocol for introducing deposition designations:

a. By 8:00 p.m. ET four calendar days before a Party reasonably believes it will conclude its case-in-chief or its rebuttal presentation, the Party shall provide its deposition designations to the opposing Party;

b. By 6:00 p.m. ET two calendar days later, the opposing Party shall identify any remaining objections to the deposition designations. The Parties shall meet and confer as soon as practicable to resolve any disputes; and

c. The Parties shall submit their deposition designations, including videos, at the conclusion of their cases-in-chief and, for rebuttal evidence, at the conclusion of their respective rebuttal presentations. The list of deposition designations shall be filed on the docket.

8. Each Party shall have 75 hours of trial time. The Court will keep a log of trial time used, but each Party must do the same.

9. If necessary, a fourth week of trial will resume at 9:00 a.m. ET on February 13, 2023.

BY THE COURT:

/s/ Joshua D. Wolson

JOSHUA D. WOLSON, J.

United States District Judge